

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CONSOLIDATED AMERICAN SERVICES, INC.,	§	
	§	
	§	
Plaintiff,	§	
	§	
VS.	§	CIVIL ACTION NO. H-10-04064
	§	
WESTCHESTER SURPLUS LINES	§	
INSURANCE COMPANY, <i>et al.</i> ,	§	
	§	
Defendants.	§	

MEMORANDUM AND ORDER


This is an insurance case arising out of Hurricane Ike. The plaintiff filed suit in state court and the defendants timely removed. (Docket Entry No. 1). The defendants now seek to require a more definite pleading, particularly of the causes of action that include intentional misrepresentation. (Docket Entry No. 6). The plaintiff has not filed a response to the motion for a more definite statement.

A district court will grant a motion for a more definite statement under Rule 12(e) when the pleading at issue “is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading.” FED. R. CIV. P. 12(e). The motion must state the defects in the pleading and the details desired. *See id.* The Supreme Court has noted that “[i]f a pleading fails to specify the allegations in a manner that provides sufficient notice,” then a Rule 12(e) motion may be appropriate. *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 514 (2002). In deciding whether to grant a Rule 12(e) motion, the trial judge is given considerable discretion. *Newcourt Leasing Corp. v. Regional Bio-Clinical Lab, Inc.*, No. Civ. A. 99-2626, 2000 WL 134700, *1 (E.D. La. Feb. 1, 2000).

In this case, the plaintiff's pleading was filed under the Texas pleading rules. It does not allege facts other than the existence of insurance policies, damage to the insured property, and payment that was too slow or too small by an undisclosed measure. Although intentional misrepresentations are alleged, there is no allegation of the circumstances of those misrepresentations that would comply with Rule 9(b) of the Federal Rules of Civil Procedure.

The motion for more definite statement is granted. (Docket Entry No. 6). An amended complaint must be filed no later than January 24, 2011.

SIGNED on January 3, 2011, at Houston, Texas.



Lee H. Rosenthal
United States District Judge